UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,021	02/11/2004	Anthony Kit Lun Leung	884.0214USU	2209

7590 10/06/2006

Charles N.J. Ruggiero, Esq.
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
One Landmark Square, 10th Floor
Stamford, CT 06901-2682

EXAMINER	
DOAN, ROBYN KIEU	
ART UNIT	**PAPER NUMBER**
3732	

DATE MAILED: 10/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/777,021	LEUNG ET AL.	
	Examiner	Art Unit	
	Robyn Doan	3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 February 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *11 February 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *11/04/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1, 15 and 20 there exist an inconsistency in the claims thus making this scope unclear. Claims 1, 15 and 20 recite a head portion with a threading assembly being only functionally recited, i.e. "for accommodating one or more accessories and accommodating at least a portion of a threading assembly" and thus indicating that the claims are directed to the subcombination, a hair accessory application with a head portion. However, the body of the claims positively recites the threading assembly as part of the invention (for example, claim 1, lines 7-10), thus indicating that the combination of the threading assembly and the head of the hair accessory application device is being claimed. As such, it is unclear whether applicant intended the claims to be directed to the subcombination, the head of the hair accessory application device, or the combination, the head portion with the threading assembly. Applicant is hereby required to indicate whether the claims are intended to be drawn to the subcombination only or the combination and amend the claims to make the language thereof consistent

with this intent. For examination purposes, the claims will be considered as drawn to the combination of the head portion of the hair accessory application device with the threading assembly.

Claim 1 recites the limitation "said drive motor" in line 10. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 3-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Chung et al (U.S. Pat. # 5,671,759).

With regard to claim 1, Chung et al discloses a hair accessory application device (figs. 3-6) comprising a housing (10) having a handle (20) and a head portion (22), the handle portion accommodating at least a portion of a drive assembly (80) and the head portion having an accessory guide (166, fig. 6) for accommodating one accessory (170) and accommodating at least a portion of a threading assembly, the threading assembly including at least one hair engagement element (160) and an accessory applicator (140, fig. 3), the accessory applicator being operatively connected to the drive assembly (80,

col. 5, lines 27-33). In regard to claims 3, 4, Chung et al shows the drive assembly having a drive motor (80) and a drive shaft (100). In regard to claim 5, the drive assembly including a power source (66). In regard to claim 6, the accessory guide having an accessory retaining groove (150, fig. 4).

> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6 and 9, 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Kennedy et al (U.S. Pat. # 6,637,441).

With regard to claim 1, Kennedy et al discloses a hair accessory application device (figs. 1, 2 and 8) comprising a housing (10) having a handle (12) and an annular head portion (14), the handle portion accommodating at least a portion of a drive assembly (90) and the head portion having an accessory guide (58, fig. 8) for accommodating one accessory (60) and accommodating at least a portion of a threading assembly, the threading assembly including at least one hair engagement element (52) and an accessory applicator (16), the accessory applicator being operatively connected to the drive assembly (col.3, lines 26-28). In regard to claim 2, the drive assembly being bi-directional (col. 4, lines 50-55). In regard to claims 3, 4, Kennedy et al shows the drive assembly having a drive motor (90) and a drive shaft (92). In regard to claim 5, the drive assembly including a power source (col. 4, lines 64-67). In regard to claim 6, the accessory guide having an accessory retaining groove

(col. 4, lines 13-15). In regard to claim 9, the threading assembly having an accessory retaining shaft (78, fig. 9). In regard to claim 10, the hair engagement (52, fig. 8) being at an end of the accessory shaft (78).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 7, 8, 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kennedy et al.

With regard to claims 7, 8, Kennedy et al discloses a hair accessory device comprising all the claimed limitations in claim 1 as discussed above except for the accessory retaining groove accommodates accessories of varying sizes. It would have been obvious to one having an ordinary skill in the art at the time the invention was made to construct the accessory retaining groove accommodates accessories of varying sizes, since such a modification would have involved a mere change in the size component. A change in size is generally recognized as being within the level or ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955). In regard to claims 11-14, Kennedy et al fails to show the one accessory having a fastener or being beads with an aperture or a crimp bead. It would have been an obvious matter of design choice to

one having an ordinary skill in the art at the time the invention was made to employ a fastener to the accessory as taught by Kennedy et al or to employ beads with an aperture or a crimp bead as accessories, since such modifications would involved a design choice of the component. In regard to claim 15, Kennedy et al discloses a hair accessory application device comprising all the claimed limitations in claim 1 except for the shape of the accessory guide being curved. It would have been obvious to one having an ordinary skill in the art at the time the invention was made to construct the curved accessory guide, since such a modification would have involved a mere change in the shape of the known component. A change in shape is generally recognized as being within the level or ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955). In regard to claim 16, Kennedy fails to show the head portion being transparent. It would have been obvious to one having an ordinary skill in the art at the time the invention was made to employ the head portion being transparent, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416. In regard to claim 17, Kennedy et al shows the handle portion having a control interface (25). In regard to claim 18, Kennedy et al shows the drive assembly having a drive motor (90) and a drive shaft (92). In regard to claim 19, the drive assembly being bi-directional (col. 4, lines 50-55). In regard to claim 20, Kennedy et al shows the above apparatus and a method for applying accessories to the strands of hair comprising the step of introducing one accessory to the accessory guide (figs. 5a), engaging one or more strands of hairs (108) via the hair engagement element (fig.

5b) so that the strands of hair being positioned proximate end of the guide, actuating the accessory applicator (abstract, lines 7-9) to apply one accessory to the hair strands and fastening the accessory to the hair strands (col. 6, lines 17-20) and disengaging the hair strands to leave the accessory on the hair strands.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Leason et al and Glucksman et al are cited to show the state of the art with respect to a hair wrapper.

The drawings filed 2/11/2004 have been approved by the Examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robyn Doan whose telephone number is (571) 272-4711. The examiner can normally be reached on Mon-Fri 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on (571) 272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Robyn Doan
Examiner
Art Unit 3732